



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent – Section 67;
2. A Monetary Order for compensation – Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing in person on August 21, 2013 in accordance with Section 89 of the Act. The Tenant did not attend the Hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 4, 2013 and ended on September 24, 2013 when the Tenant was removed by a bailiff. Rent of \$1,200.00 was payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$600.00 as a security deposit. The tenancy agreement provides for a \$25.00 daily late rent payment fee. The Tenant failed to pay rent for June, July, August and September 2013. The Landlord claims unpaid rent and late rent fees.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Based on the undisputed evidence of the Landlord, I find that the Landlord has substantiated that the Tenant has not paid rent as required under the tenancy agreement and that the Landlord is therefore entitled to **\$4,800.00**.

Section 7 of the Residential Tenancy Regulations provides that a landlord may charge a late rent payment fee of no more than \$25.00 where such provision is contained in the tenancy agreement. Section 6 of the Act provides that a term of a tenancy agreement is not enforceable if the term is inconsistent with this Act or the regulations. As the tenancy agreement late fee provision is inconsistent with the Regulations, I find that this provision is unenforceable and of no effect. I therefore dismiss the claim for late fees.

As the Landlord has been successful, I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$4,850.00**. Deducting the security deposit of **\$600.00** plus zero interest leaves **\$4,250.00** owed by the Tenant to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit and interest of \$600.00 in partial satisfaction of the claim and I grant the Landlord a monetary order under Section 67 of the Act for **\$4,250.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 26, 2013

Residential Tenancy Branch

